



National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2023-0012]

RIN 2127-AM54

Side Underride Guards; Extension of Comment Period

AGENCY: National Highway Traffic Safety Administration (NHTSA); Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: NHTSA received two requests to extend the comment period for the Advance Notice of Proposed Rulemaking (ANPRM) regarding side underride guards that NHTSA published on April 21, 2023. The comment period for the ANPRM was scheduled to end on June 20, 2023. NHTSA is extending the comment period for the ANPRM by 30 days.

DATES: The comment period for the ANPRM published on April 21, 2023, at 88 FR 24535, is extended to July 20, 2023.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- Federal eRulemaking Portal: Go to <https://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-0001.
- Hand Delivery or Courier: 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- Fax: 202-493-2251.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> at any time or to 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202-366-9826.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its decision-making process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.transportation.gov/privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you must submit your request directly to NHTSA's Office of the Chief Counsel. Requests for confidentiality are governed by 49 CFR part 512. NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the agency under part 512. If you would like to submit a request for confidential treatment, you may email your submission to Dan Rabinovitz in the Office of the Chief Counsel

at Daniel.Rabinovitz@dot.gov or you may contact him for a secure file transfer link. At this time, you should not send a duplicate hardcopy of your electronic CBI submissions to DOT headquarters. If you claim that any of the information or documents provided to the agency constitute confidential business information within the meaning of 5 U.S.C. 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. 1905, you must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with part 512, to the Office of the Chief Counsel. Your request must include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR 512.8) and a certificate, pursuant to § 512.4(b) and part 512, appendix A. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket at the address given above.

FOR FURTHER INFORMATION CONTACT:

For technical issues: Ms. Lina Valivullah, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590 (telephone) 202-366-8786, (email) Lina.Valivullah@dot.gov.

For legal issues: Ms. Callie Roach, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590, (telephone) 202-366-2992, (email) Callie.Roach@dot.gov.

SUPPLEMENTARY INFORMATION:

On April 21, 2023, NHTSA published an ANPRM responding to section 23011(c) of the November 2021 Infrastructure Investment and Jobs Act (IIJA), commonly referred to as the Bipartisan Infrastructure Law (BIL), which directs the Secretary to conduct research on side underride guards to better understand their overall effectiveness, and assess the feasibility, benefits, costs, and other impacts of installing side underride guards on trailers and semitrailers. The BIL further directs the Secretary to report the findings of the research in a *Federal Register*

notice to seek public comment. The ANPRM also responds to a petition for rulemaking from Ms. Marianne Karth and the Truck Safety Coalition (TSC). The comment period for the ANPRM was scheduled to end on June 20, 2023.

Comment Period Extension Requests

On May 9, 2023, NHTSA received a joint request from Eric Hein, Stephen Bingham, Aaron Kiefer, Jerry Karth, and Lois Durso asking NHTSA to extend the comment period for the ANPRM. The requestors state that 60 days does not provide adequate time to prepare robust and substantive comments on such an important issue, and that they are preparing to conduct additional crash tests of side underride guards that will involve considerable stakeholder involvement, planning, and subsequent analysis. The requestors indicate that extending the comment period by no less than 30 days would provide the opportunity to develop comprehensive, well informed, and data-based input for NHTSA's consideration.

The requestors also noted their concern that there were two additional reports missing from the docket that were referenced in the report titled, "Side Impact Guards for Combination Truck-Trailers: Cost-Benefit Analysis," referred to hereafter as the Cost-Benefit Analysis Report (CBAR). The requestors request immediate posting of this information to the docket and state that a full and proper analysis cannot be conducted until this additional information is released for review.

As to the first report, a sentence on page 1 of CBAR states that "[t]he effects of speed limit, vehicle age, occupant age, belt use, and road surface conditions on occupant fatalities *are also discussed in this study*" (emphasis added). The "study" refers to a NHTSA analysis conducted for the CBAR. As mentioned in the report, the code NHTSA used for compiling data for the analysis is found in Appendix A of the CBAR. The relevant data from the analysis is available in Section II.A of the CBAR. While the CBAR included NHTSA's analysis of speed limit and restraint use, the data and analysis regarding vehicle age, occupant age, and road

surface conditions were removed from the CBAR because they did not add any new information on crash outcomes with respect to underride. Inadvertently, the introductory statement on page 1 and language used elsewhere in the document were not modified accordingly. For completeness, we have now submitted the supplementary information and analysis to the docket, NHTSA-2023-0012. Since these factors do not affect crash outcomes with respect to underride, the additional information does not change the analysis or results of the CBAR.

As to the second report, a sentence on page B-2 of the CBAR refers, in part, to an “Evaluation of Vehicle Underride and Associated Fatalities in Light Vehicle Crashes into the Side of Truck Trailers Report.” This refers to a draft NHTSA report the agency prepared and later decided to incorporate into the CBAR. The methodology, data, and analysis for the referenced study may be found in Section II.B of the CBAR. Inadvertently, the reference in Appendix B was not updated accordingly.

NHTSA received a second request to extend the comment period on May 23, 2023, from the American Trucking Associations (ATA). ATA requests a 30-day extension to the comment period to ensure ATA has sufficient time to coordinate with its members to develop comments on the complex issues presented in the notice. ATA notes that the ANPRM requested specific feedback on side underride guard interactions with road features, loading docks, port operations, and other types of operations, and ATA seeks additional time to work with its members to gather examples of these interactions.

Agency Decision

Pursuant to 49 CFR 553.19 and after thorough consideration of these requests, NHTSA has determined that the requestors have provided sufficient justification for an extension, and that the extension is consistent with the public interest. NHTSA agrees that allowing additional time for the public and its stakeholders to provide robust and substantive comments on this complex issue will better inform NHTSA. A 30-day extension appropriately balances NHTSA's interest in providing the public with sufficient time to review the docket and comment on the

complex questions raised in the ANPRM with its interest in obtaining specific feedback from stakeholders in a timely manner. The extension will also provide sufficient time for commenters to review the supplementary information that we have submitted to the docket. Accordingly, NHTSA is granting the aforementioned request and extending the comment period by 30 days.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

Sophie Shulman,

Deputy Administrator.

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